THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13076 of 1998

Dated:28.06.2007

Between:

Veram Reddi Ramayamma.

…PETITIONER

and

The Special Deputy Collector (Tribal Welfare), Rampachodavaram, East Godavari District, and others.

…RESPONDENTS

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ORDER:

The petitioner alleges that she belongs to konda kapu community, which is recognized as scheduled tribe. She purchased land admeasuring Ac.1.85 in survey No.39/3 situated at Gandolue Village, Addateegala Mandal, East Godavari District, under registered document dated 13.06.1975. The Special Deputy Tahsildar, however, filed a complaint under Section 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (the Regulation, for brevity) as amended by Regulation No.I of 1970 alleging that the transaction in favour of the petitioner is in violation of Section 3 (1)(a) of the Regulation. First respondent, namely, the Special Deputy Collector (Tribal Welfare), Rampachodavaram, conducted enquiry in L.T.R.P.No.134/1984 and passed orders on 04.04.1985 declaring the transaction under which the petitioner purchased the land as null and void. He also took the view that the petitioner does not belong to scheduled tribe. The petitioner then preferred C.M.A.No.44 of 1985 before the Agent to the Government, second respondent herein, who by order dated 17.03.1989 confirmed the orders of the original authority. The petitioner then filed W.P.No.5661 of 1989. This Court statedly granted stay on 03.05.1989. In spite of the same, third respondent granted D-Form pattas in favour of respondents 4 and 5. Aggrieved by which the petitioner filed instant writ petition

seeking invalidation of D-Form pattas.

First respondent filed a counter-affidavit. While admitting the proceedings initiated against the petitioner and passing of the order by second respondent in C.M.A.No.44 of 1985 dismissing the appeal on 17.03.1985, it is stated that the petitioner's writ petition, being W.P.No.5661 of 1989, filed against C.M.A.No.44 of 1985 was dismissed on 21.01.1997. It is further alleged that thereafter the possession was taken from the petitioner and was handed over to the landless poor persons, vide reference No.C.535/89, dated 30.10.1997. Therefore, the present writ petition is not maintainable.

The counter-affidavit was filed on 27.07.1999 duly serving a copy thereof on the other side. In spite of the same, the petitioner has not filed any reply-affidavit denying the averments made in the counter-affidavit. Therefore, it stands proved that the petitioner was unsuccessful in her attempt to get the orders in C.M.A.No.44 of 1985 dated 17.03.1989 passed by second respondent set aside. Admittedly the pattas were granted to respondents 4 and 5 on 30.10.1997. This was done only after W.P.No.5661 of 1989 was dismissed on 21.01.1997. The learned counsel for the petitioner, however, submits that initially W.P.No.5661 of 1989 was dismissed for default and thereafter when an application was moved for setting aside the default order, said writ petition was restored and ultimately said writ petition was allowed by setting aside the orders of second respondent. However, no efforts are made to place these documents before this Court. Therefore, this Court is not inclined to go into this aspect. If the order passed by first respondent in L.T.R.P.No.134 of 1984 dated 04.04.1985 as confirmed by second respondent in C.M.A.No.44 of 1985 on 17.03.1989 has been set aside by this Court, it is always open to the petitioner to prefer an appeal before the Revenue Divisional Officer against the pattas granted in favour of respondents 4 and 5. In this writ petition, this Court is not inclined to exercise discretion in favour of the petitioner, especially when respondents 4 and 5 are in possession of the land for about ten years.

The writ petition, therefore, is dismissed. No costs.

(V.V.S.RAO, J)

28th June, 2007
ghn